

**From:** Jeff Smith  
**To:** Microsoft ATR  
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**Subject:** Microsoft Settlement

I am taking this opportunity to comment on the proposed Microsoft settlement. I have many issues with the settlement as it stands. Most importantly, the Proposed Final Judgement:

- \* Does not take into account Windows-compatible operating systems. Microsoft increases the applications barrier to entry in this market by using restrictive license terms and intentional incompatibilities and yet the Proposed Final Judgement fails to prohibit this, and even contributes to it.
- \* Fails to prohibit anticompetitive licensing terms. Microsoft currently uses excessively restrictive licensing terms to keep competing applications from running on Windows. Similarly, Microsoft currently uses restrictive licensing terms to keep Windows apps from running on competing operating systems. Furthermore, Microsoft's enterprise licensing agreements (used by large companies, state governments, and universities) charge by the number of computers which COULD run a Microsoft operating system, not for the number that actually DO. For universities especially, assuming that all PCs run Windows is absurd, and a bald attempt to extort money. Similar licenses to outside equipment manufacturers (OEMs) were once banned by the 1994 consent decree, and yet Microsoft continues the practice.
- \* Appears to lack an effective enforcement mechanism. The Proposed Final Judgement fails require advance notice of technical requirements. Fails to force Microsoft to document many of its APIs (the interfaces between application programs and the operating system).

These are not the only problems that I see with the PFJ, but merely the most striking. I beleive that the Proposed Final Judgment as written allows, and even encourages, significant anticompetitive practices to continue, delays the emergence of competing Windows-compatible operating systems, and is therefore not in the public interest. It should NOT be adopted without SUBSTANTIAL revision to address these problems.

Yours,  
Jeffrey Smith